

REMARKS

Reconsideration of the application is respectfully requested.

In this amendment claims 1, 5-9, 11-16, 19-21, 24-28, 30-32, 34-36, and 38-39 have been amended; claim 10 has been canceled; and no new claims have been added.

Dispensing first with some formalities, the drawings are objected to because they did not include a reference character 230 mentioned in the Specification. This appears to have been caused by a typographical error in the text of the Specification as filed, which has now been corrected in this amendment. Accordingly, the drawings are now believed to be consistent with their corresponding textual description, and no correction to the drawings is deemed necessary.

Turning now to the claims, claims 1-9, 12 and 14-39 stand rejected under 35 U.S.C. §103 as being obvious in view of U.S. Patent No. 6,661,773 issued to Pelissier, et al. ("Pelissier") and further in view of U.S. Patent No. 6,304,549 issued to Srinivasan ("Srinivasan"). Although the initial sentence describing the rejection on page 2 of the office action refers to the Pelissier patent, it is clear from the rest of the Office Action that the actual reference that is being applied is U.S. Patent No. 6,442,132 issued to Burns, et al. ("Burns").

With respect to claim 1, this claim has been amended to overcome the rejection by incorporating subject matter taken from dependent claims 5 and 10 (the latter having now been canceled). Accordingly, claim 1 as amended here is believed to be neither anticipated nor obvious in view of Burns and Srinivasan, because neither reference separately or in combination teaches or suggests a method in which data is transmitted on a first virtual circuit, a message is received on a second virtual circuit where the message signal is a possible failure detected in the network, and transmission of the data is switched from the first to the second virtual circuit unless a predetermined gap in transmission of the data along the connection is detected. Although Burns describes a method of establishing and maintaining a connection through a network by setting up an alternate path between the end points and switching from the first path to the alternate path, it does not teach or suggest not doing the switching when a

predetermined gap in transmission of the data along the connection is detected. Such modification is also not taught or suggested by Srinivasan.

Claims 5-9 have been amended to either correct their dependencies in view of the material taken from claim 5 and placed in claim 1, and to recite other aspects of the invention that may not have been previously claimed. For example, claim 5 has been amended to refer to the data being voice packets of a voice call, and the predetermined gap being a result of a silent period in the call. Support for this amendment may be found in the Specification as filed, in Fig. 4 and associated textual description. Accordingly, no new matter has been added.

Claim 7 has also been amended to refer to another aspect of the invention, where the switching occurs such that the voice call is not dropped. For support, see, for example, the Specification as filed, at page 13, first and second paragraphs. Accordingly, no new matter has been added here. Similarly, support for the amended language in claim 9 can be found at page 13, first full paragraph.

Claim 11, which was indicated as being allowable, has been rewritten in independent form, incorporating much of the material in itself originally, as well as its base claims. The relied upon art references, Burns and Srinivasan, do not teach or suggest the method recited in amended claim 11 where the transmission of the data is switched from a first virtual circuit to a second virtual circuit unless the predetermined gap in transmission of data along the connection is detected, in which case a data packet signaling the predetermined gap is transmitted on the first virtual circuit.

Claim 13 has also been amended to recite much of the material previously in claim 13 and its base claims. This claim is not anticipated or obvious in view of the relied upon art references, because neither Burns nor Srinivasan teach nor suggest the method in amended claim 13 where the transmission of the data is switched from the first virtual circuit to the second virtual circuit unless transmission of the data along the connection is complete, in which case the message is discarded.

Turning now to claim 16, this claim has been rewritten in accordance with a particular aspect of the invention, and finds support in the Specification as filed, at page

11. Accordingly, no new matter has been added. The new method claim is neither anticipated nor obvious in view of the relied upon art references, because neither reference teaches or suggests the recited method that is suitable for rerouting the flow of data packets in the event of a network failure. The method recites that first and second virtual circuits that connect a pair of end nodes in a network are provided, where a connection between the end nodes can be established through either virtual circuit. Data packets are then received on the first virtual circuit at one of end nodes. Then, one of the end nodes transmits on the first and second virtual circuits messages to the other end node. This is in response to not having received a data packet for a predetermined period of time. Then, data packets of the connection are received on the second virtual circuit at said one of the end nodes. Neither Burns nor Srinivasan teach nor suggest such a method where messages are transmitted on both the first and second virtual circuits by one of the end nodes in response to not having received a data packet for a predetermined period of time .

In addition, Applicants respectfully submit that claim 16, as originally filed, is also not anticipated or obvious, because it recites a method in which data is received on a first virtual circuit, a message is transmitted on both the first and a second virtual circuit if the data is not received for a predetermined period of time, and said data is received on the second virtual circuit. Accordingly, the amendment to claim 16 is not required by the patent statutes.

Dependent claims 19 and 20 have also been amended to refer to other aspects of the invention which are supported in the Specification as filed, and accordingly do not add new matter. See, for example, page 12, first full paragraph and page 16, second full paragraph.

Turning now to claim 32, this claim has been amended to distinguish from a functional point of view the relied upon art reference of Burns. The claim is not anticipated or obvious in view of Burns and Srinivasan, because neither reference teaches or suggests the structure described in the Specification as filed that is necessary to perform the recited acts of transmitting data for a voice call on a first virtual circuit, receiving a message on a second virtual circuit that signals a possible failure detected in

the network, and switching the transmission of the data for the voice call from the first to the second virtual circuit unless a gap in transmission of the data is determined to be due to a silent period in the voice call. Support for this amendment can be found in the Specification as filed, in Fig. 4 and corresponding textual description.

Referring now to claim 34, this claim as filed, is submitted as being neither anticipated nor obvious in view in Burns and Srinivasan, because neither reference teaches or suggests the structure described in the Specification for performing the act of transmitting a message on both a first and second virtual circuit in the network if data is not received for a predetermined period of time. Accordingly, no amendment is necessary to bring claim 34 in compliance with the patent statute. Nevertheless, Applicants have voluntarily amended claim 4 to refer to another aspect of the invention, namely an apparatus having the structure described in the Specification as filed, needed to perform the acts of receiving data for a voice call on a first virtual circuit, transmitting a message on a second virtual circuit and said first virtual circuit in said network, if said data is not received for a predetermined period of time selected so that transmission of data can be switched from the first circuit to the second without the voice call being dropped. Although Burns refers to a method for establishing virtual connections that experience minimal downtime, it does not specifically concern itself with avoiding voice calls being dropped.

Turning now to claim 36, this claim has been amended to overcome the rejection in view of Burns and Srinivasan, by referring to instructions which when executed by a processing system cause the system to transmit data for a voice call on a first virtual circuit, receive a message on a second virtual circuit which signals a possible failure detected in the network, and switches transmission of the data from the first to the second virtual circuit unless transmission of data for the voice call is complete, in which case the message is discarded. The relied upon art references do not teach or suggest such capability for processing a voice call.

Turning now to claim 38, Applicants respectfully disagree that this claim as filed, is obvious in view of Burns and Srinivasan, because neither reference teaches or suggests the capability of a processing system receiving data on a first virtual circuit,

transmitting a message on both a first and a second virtual circuit if the data is not received for a predetermined period of time, and receiving the data on the second virtual circuit. Although Burns describes establishing a bi-directional connection at an end point switching node upon receipt of an indication over an alternate route that the first end point switching node has transferred to the alternate route, this does not teach or suggest the capability recited in claim 38 as originally filed. Nevertheless, claim 38 has been amended to refer to a particular embodiment of the invention, without adding any new matter, that is also neither anticipated nor obvious.

Claim 39 which depends from claim 38 has been further amended to refer to a more particular embodiment of the invention, again without adding any new matter.

Any dependent claims not mentioned above are submitted as not being anticipated or obvious, for at least the same reasons given above in support of their base claims.

CONCLUSION

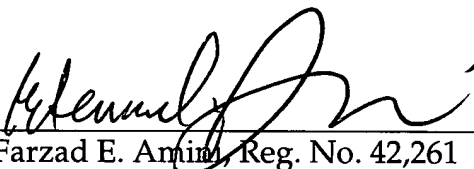
In sum, a good faith attempt has been made to explain why some of the rejections are improper, and to present the claims in better condition for allowance. It is believed that the claims, following entry of this amendment, namely claims 1-9 and 11-39 are in condition for allowance, such that a Notice of Allowance referring to such claims is respectfully requested to issue at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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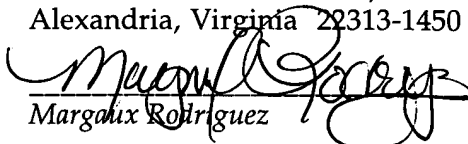
Dated: April 5, 2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on April 5, 2004.


Margalix Rodriguez April 5, 2004

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